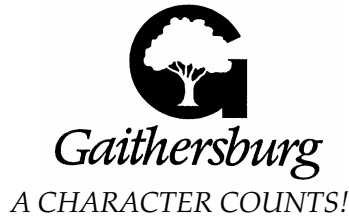


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CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
JULY 17, 2006

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Edens, Marraffa, Schlichting and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Director of Public Works, Parks Maintenance and Engineering (PWPME) Arnoult, Parks, Recreation and Culture Director McGleish, Planner Marsh, City Attorney Borten and Executive Assistant Stokes. Planning Commissioners present for joint public hearing: Chair Bauer, Commissioners Hopkins, Kaufman and Levy.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Stephen Smoltim (sp?).

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Motion was made by Council Member Marraffa, seconded by Council Member Edens, that the minutes of the Mayor and Council meeting held July 10, 2006, be approved.

Vote: 4-0

IV. CONSENT ITEM

Resolution of the Mayor and City Council of Gaithersburg Authorizing the City Manager to Enter Into a Contract to Construct a Hiker Biker Trail on North Summit Avenue

This resolution authorized the City Manager to enter into a contract for the above construction to Romano Concrete Construction, Inc., 7800 Penn Western Court, Upper Marlboro, Maryland 20772, in the amount of Ninety-Two Thousand Seven Hundred Forty Dollars (\$92,740); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Edens, seconded by Council Member Sesma, that the Consent Agenda (Resolution No. R-72-06), be approved.

Vote: 4-0

V. OATH OF OFFICE TO PLANNING COMMISSIONER

Mayor Katz administered the Oath of Office to Commissioner Leonard Levy to execute the Office of Planning Commission. Commissioner Levy was reappointed earlier in the year, term to expire in February 2011. Commissioner Levy made comments regarding his reappointment and his dedication to serve the citizens of Gaithersburg. He further expressed thanks to many individuals.

VI. PRESENTATIONS**1. Presentation of a Monetary Contribution to the Dolores Swoyer Camp Scholarship Fund**

Jeff Snyder, President of the Gaithersburg/Germantown Jaycees stated that the organization has been sponsoring the circus coming to the City of Gaithersburg, held at the Montgomery County Fairgrounds since 1996. A portion of the annual proceeds have been donated to the Dolores Swoyer Camp Scholarship Fund since 2001. This year's amount is \$1,250, bringing the grand total of the contributions from the Jaycees to this fund to \$9,150. The Jaycees are a non-profit volunteer organization that has also provided volunteer support to the City's Department of Parks, Recreation and Culture special events. The Gaithersburg/Germantown Jaycees were named the Organization of the Year for the City of Gaithersburg for 2004.

2. Addition to the Hospice Caring Cottage, 518 South Frederick Avenue, Bohrer Park at Summit Hall Farm

Planner Patula gave a brief presentation on the proposal for a 1,037 square foot addition to the Hospice Caring Cottage. The Cottage, owned by the City was leased to the Hospice Caring, Inc. (HCI) in January of 2001. During the five-year tenancy of HCI, substantial renovations were done to the interior and exterior of the building as well as the grounds. The non-profit organization provides free practical and emotional support to terminally ill people and their families. HCI raised funds to expand their existing quarters to provide for additional office space. Planner Patula stated that the City's Historic Preservation Advisory Committee received a courtesy review of the proposed project and supports the design with a minor modification to the entrance roof. The project is expected to go before the Planning Commission on July 19, 2006. Lisa McKillop, Executive Director of HCI, thanked the Mayor and City Council and staff for their efforts and continuous support over the years.

3. Update on the Day Laborer Center

City Manager Humpton reported that a potential deal fell through. He stated that the owner decided to pursue a different opportunity that suited his needs. Staff is currently looking at an interim location. City Manager Humpton stated that staff had conducted a search of all City properties and proposed that the Mayor and City Council schedule a work session to discuss the viability of utilizing the parking lot behind the Shell Station on South Summit Avenue and other related issues. The Mayor and City Council concurred to conduct a work session on Wednesday, July 26, 2006 at 7:30 p.m.

4. Presentation on the Draft Annexation Agreement for the Crown Farm Annexation (X-182)

Planning and Code Administration Director Ossont oriented the Mayor and City Council with the Crown Farm site and introduced the sketch plan.

Assistant City Manager Felton stated that following the September 2005 kick off charette, a public hearing, three work sessions, and a series of presentations on the project staff has negotiated a draft agreement for the proposed annexation. He gave a detailed overview of the agreement. He further stated that the draft agreement with exhibits is posted on the City website for the public. Mr. Felton reviewed the site which is divided by six pods (land bays). He outlined each pod giving an overview of the land use proposals, the dedicate 4.2 acres of land for the Corridor Cities Transitway (CCT) alignment and the transit station, construction of 250 parking spaces for the CCT in Pod 1, construction of all on-site roads, a traffic signal warrant study submitted with the initial SDP, and the bond to be posted by the developer for each improvement if the approving authority (the County or State) for a period of five years. If the County or State does not approve a permit for a given improvement, the developer will pay the City the cost of the improvement and the City can use the funds for any other traffic or transit improvement. Assistant City Manager Felton review the additional requirements associated with the annexation which included restrictions on the design guidelines for the community that will be approved at SDP, required LEED certifications, the donation of 32.1 acre high school site, the dedication of a five acre park to the City, the City to

grant storm drain, water and sewer, and other utility easements through City property as long as such easements have no adverse material impact on the City's property, and the developer to implement a shuttle bus program. He further stated that for the County Council to approve the annexation, the developer must contribute \$2 million to the Montgomery County Agricultural Land Preservation Easement Fund. Also required by the developer is a \$5 million contribution to the City for a regional recreational facility, a \$150,000 commitment for public art in POD 1 in conjunction with the City's Art in Public Places Committee and additionally, the developer must work with staff on public art in PODs 2 and 3 not exceed \$50,000. Another requirement by the developer in the agreement is \$30,000 for bus shelters and \$200,000 for off-site sidewalk. In closing, Mr. Felton stated that staff addressed the phasing of the project and the impact tax credits to the developer for various transportation improvements. Staff accepts MCPS's findings, that pursuant to the current Montgomery County Annual Growth Policy, the schools are adequate to support the student generation for this development, and agrees that Gaithersburg will not further consider the adequacy of schools to support this development for a period of 20 years.

VII. PUBLIC APPEARANCES

1. *Wayne Goldstein, President of Montgomery Preservation, Inc.*, opposed to the proposed agreement and designated resources on the Crown property. He stated that resources have not been sought after by the developer for historic preservation. He submitted a letter for the record.
2. *Roy Fleischer, 444 Placid Street*, stated that the land designated for the high school on the Crown Farm property site is not adequate.

VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Sesma

Congratulated Commissioner Levy on his reappointment and swearing in to the Office of Planning Commission.

Council Member Edens

Announced that the City is currently looking for groups and organizations to march in the City's 68th Annual Labor Day Parade on Monday, September 4th at 1 p.m. in Olde Towne Gaithersburg. For more information visit the City's website at www.gaithersburgmd.gov.

Council Member Schlichting

Reported that he and Assistant City Manager Tomasello represented the City at a recent Board of Education meeting where a resolution was passed approving the lease of a pad site at Gaithersburg Middle School to accommodate the City's Olde Towne Youth Center.

Mayor Katz

1. Gave notice to the public that the Mayor and City Council plan to conduct a closed executive session on Monday, July 24, 2006, immediately following the scheduled work session pursuant to Section 10-508(a)(1), Subsection (i), State Government Article of the Annotated Code of Maryland to discuss a personnel matter. The topic to be discussed is the annual performance evaluation of the City Manager. The closed executive session will be held pursuant to a motion properly adopted during the work session on Monday, July 24, 2006.
2. Announced that a joint work session with the Planning Commission will be held on Monday, July 24, 2006, to conduct a comprehensive review of a draft adequate public facilities ordinance.
3. Announced that the Mayor and City Council will conduct a special work session on Wednesday, July 26, 2006, to discuss the viability of utilizing the parking lot behind the Shell Station on Summit Avenue for a temporary day laborer site. The City Council will also discuss a possible shift in policy

suggested by Montgomery County which includes a comprehensive grant for funding that would be appropriate for a day laborer center and the City of Gaithersburg and the proposed scope of work for a potential contractor.

4. Announced that the Mayor and City Council will not conduct a work session on Monday, July 31, 2006. The next regular meeting of the Mayor and City Council will be on Monday, August 7, 2006.

IX. JOINT PUBLIC HEARING

MP-1-06 - Special Conditions Associated with the GE Technology Park Special Study Area of the Master Plan Amendment MP-2-04: 2003 Land Use Plan, an Element of the City of Gaithersburg Master Plan

Planning and Code Administration Director Ossont stated that the joint public hearing was advertised in the *Gaithersburg Gazette* on May 17 and 24, 2006. He gave a brief presentation stating that the proposed special conditions were developed throughout a number of public hearings, work sessions, and a recent policy discussion on May 1, 2006. The City's Master Plan was approved on May 15, 2006 which contained the exact same language for special conditions; however, special conditions require their own separate public hearings. He stated that the special conditions relate to concurrency of development, comparable mix and density of future development and preservation of open space.

Speakers from the public were:

1. *Jody Kline, Miller, Miller & Canby*, expressed concern that the proposed language for special conditions needed more consideration. He stated that the language for special conditions are inconsistent in some cases and does not provide adequate guidance for the applicant, Planning Commission and the Mayor and City Council. He also expressed a lack of concurrency and asked for an opportunity to work with the City to maximize the green space. In closing he stated a zoning application was filed with the City and asked that the application proceed with the special conditions.
2. *Rachel Hopp, Lakelands Resident, Environment Affairs Committee Member*, focused on the environmental element of the Master Plan as it relates to the special conditions. She stated that the environmental element calls for the protection of sensitive areas such as streams, wetlands, lakes and open space and expressed the importance of the special conditions. The Committee also expressed support for smart growth and green building practices.
3. *Richard Arkin, 121 Selby Street*, stated that the special conditions are not the best approach when dealing with the MXD Zone and made several references and comments to preserve various areas of the property.
4. *Pat McCaulley, Lakelands resident*, questioned the open space in front of the lake having a different land use designation than the City's aquatic site. Mr. Ossont responded that in each of the two options adopted by the Mayor and Council, have been recommend to be zoned R-A (low density residential) which is consistent with open space designations that have been used in the past.
5. *Roy Fleisher, 444 Placid Street*, suggested that Edison Park Drive be the main entrance into the new development.

There were no other speakers at the hearing.

Motion was made by Commissioner Hopkins, seconded by Commissioner Kaufman, to close the Planning Commission record for MP-2-04 on July 27, 2006.

Vote: 4-0

(Please note that the above motion referred only to MP-2-04, the Master Plan Amendment, rather than to MP-1-06, the special conditions specifically. In order to clarify the record, a corrected motion was made during the July 19, 2006 Planning Commission meeting)

Motion was made by Council Member Edens, seconded by Council Member Sesma, to close the City Council record for MP-1-06 on August 16, 2006.

Vote: 4-0

Mayor and City Council Policy Discussion and final action scheduled for Tuesday, September 5, 2006.

RECESSED THE MAYOR AND COUNCIL MEETING AT 8:44 P.M.
AND RECONVENED AT 8:47 P.M.

X. ORDINANCES AND RESOLUTIONS

1. Introduction of an Ordinance to Amend Chapter 13 of the City Code Entitled "Landlord Tenant Relations," to Create a New Section 13-38 Entitled "Relocation Assistance" so as to Require Multi-Family Property Owners to Provide Additional Relocation Assistance to Tenants Displaced by Redevelopment

Assistant City Manager Felton stated that Chapter 53A of the County Code, applicable in the City pursuant to Chapter 2 of the City Code, requires property owners to provide an amount equal to two (2) month's rent to tenants who are displaced by redevelopment or condominium conversion. He further stated that recently, RST Development received approval to redevelop West Deer Park Apartments, and agreed to provide three and one half (3 ½) month's rent in relocation assistance to tenants. The additional assistance helped the West Deer Park tenants with costs for increased relocation expenses and more expensive down payments. Staff believes that the potential exists that a number of multi-family communities in the City could be redeveloped in the near future, and that the existing County requirement of two (2) months rent as relocation assistance would not be adequate to prevent hardships for many of these potentially displaced tenants. The proposed ordinance would require property owners to pay an additional one and one half (1 ½) month's rent to each leaseholder displaced by pending demolition or redevelopment. Staff recommended that the Mayor and City Council vote to introduce the proposed ordinance and notify the public that a public hearing will be held on August 7, 2006.

Motion was made by Council Member Sesma, seconded by Council Member Schlichting, that the above Ordinance, be introduced.

Vote: 4-0

2. Resolution for the Dedication of Land, Design, Development and Construction of Watkins Mill Road

Assistant City Manager Felton stated that the City of Gaithersburg, Montgomery County, and BP Realty Investments, LLC have reached a tentative agreement on a concept for the complete build out of Watkins Mill Road Extended. In conjunction with land use approvals for Monument Realty, Casey West, and Casey East, developers are obligated to dedicate all the necessary right-of-way for the construction of Watkins Mill Road Extended. As part of the Casey West approval, BP Realty Investments, LLC was required to construct four lanes of Watkins Mill Road Extended from MD 117 to I 270; however, subsequent to the approval it was determined that Watkins Mill Road Extended should be six lanes to handle anticipated traffic volumes. Pursuant to this Agreement, Montgomery County impact taxes collected from development at Casey East, Casey West, the Monument Office Park, and McGowan Tract may be dedicated to the Watkins Mill Road project. In addition, the City will contribute to the cost of the County's participation, 50 percent of the total permit fees paid by the developer for the construction of a four lane bridge over the CSX right-of-way and for both segments of Watkins Mill Road Extended.

Motion was made by Council Member Schlichting, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A MEMORANDUM OF AGREEMENT WITH MONTGOMERY COUNTY AND BP REALTY INVESTMENTS, LLC FOR THE DEDICATION OF LAND, DESIGN, DEVELOPMENT AND CONSTRUCTION OF WATKINS MILL ROAD (Resolution No. R-73-06), be approved.

Vote: 4-0

XI. FROM STAFF

Assistant City Manager Felton

Staff recommended that the City Council vote to close the record on X-182 (Crown Farm Annexation) as of Wednesday, August 2, 2006 at 5 p.m.

Motion was made by Council Member Edens, seconded by Council Member Schlichting, that the Mayor and City Council record on X-182, close as of Wednesday, August 2, 2006, 5 p.m.

Vote: 4-0

XII. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:50 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant